CONFIDENTIAL

Case Number: S1999000030

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Chile Project (#\$199900030)
U.S. Deport

Exemption(s)

U.S. Department of State
Release Excise
Declassify: In Part

\_\_\_\_ Deny\_ \_\_In Full. X

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PAGE 01 ACTION ARA-01

| INFO | LOG-00<br>HA-09 | AID-01<br>H-01 | AMAD-01<br>INRE-00 | CIAE-00<br>INR-01 | DODE-00<br>IO-19 | DS-00<br>LAB-04 | EB-01<br>L-03 |
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R 201651Z NOV 91 FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 4102

SANTIA

INFO AMEMBASSY ASUNCION

AMEMBASSY BOGOTA

AMEMBASSY BRASILIA

AMEMBASSY BUENOS AIRES

AMEMBASSY CARACAS

AMEMBASSY LA PAZ

AMEMBASSY LIMA

AMEMBASSY MONTEVIDEO

AMEMBASSY QUITO

USCINCSO QUARRY HEIGHTS

CONFIDE NI I A L SECTION 01 OF 04 SANTIAGO 09350

E.O. 12356:DECL: OADR

TAGS: PGOV, PTER, PHUM, CI

SUBJECT: "POLITICAL PRISONERS" ISSUE BECOMES MAJOR IRRITANT FOR GOC

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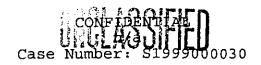
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REF: SANTIAGO 2271

SUMMARY

1. (C) A HUNGER STRIKE BY FOUR "POLITICAL PRISONERS" AND PUBLIC DEMONSTRATIONS SEEKING THE RELEASE OF SOME 70 DETAINEES HAVE FORCED THE AYLWIN GOVERNMENT TO MOVE MORE QUICKLY TO RESOLVE THE FATE OF THOSE ARRESTED BEFORE 1990 FOR POLITICALLY MOTIVATED CRIMES. THE CONGRESS APPROVED SPECIAL LEGISLATION TO SPEED UP THEIR TRIALS AND REDUCE PRISONER BACKLOG. THE GOC NONETHELESS FACES A PREDICAMENT, AS VIRTUALLY ALL HAVE COMMITTED SERIOUS OFFENSES, INCLUDING MURDER, AND SOME PARTICIPATED IN CHILE'S





BETTER-KNOWN TERRORIST INCIDENTS. THOUGH IMMEDIATE TENSIONS HAVE SUBSIDED, THE EXTREME LEFT CONTINUES TO RATCHET PRESSURE FOR THE RELEASE OF ALL "POLITICAL PRISONERS," WHILE THE RIGHT OPPOSES PARDONING AND RELEASE OF THOSE INVOLVED IN CAPITAL CRIMES. END SUMMARY.

## THE ISSUE

2. (C) "POLITICAL PRISONER" IS THE TERM LOOSELY APPLIED TO INDIVIDUALS ARRESTED FOR COMMITTING POLITICALLY MOTIVATED CRIMES DURING THE 1973-1990 PINOCHET REGIME, INCLUDING TERRORIST ASSAULTS. WHEN PRESIDENT AYLWIN WAS INAUGURATED ON MARCH 11, 1990, THERE WERE MORE THAN 400 DETAINEES IN THIS CATEGORY. THE FIGURE HAS SINCE DROPPED

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BELOW 70. THE ISSUE REMAINS SENSITIVE BECAUSE SOME OF
THOSE STILL IN PRISON HAVE BEEN CONVICTED OF SERIOUS
CRIMES AND SENTENCED, OTHERS STILL AWAIT SENTENCING, AND
YET OTHERS HAVE YET TO BE TRIED. THOSE SUPPORTIVE OF
RELEASING THESE PRISONERS ARGUE THAT VIRTUALLY ALL HAVE
BEEN SUBJECTED TO UNFAIR TRIALS, SEVERE TORTURE, AND
UNJUST SENTENCES.

3. (C) THE "POLITICAL PRISONERS" ISSUE HAS BEEN A PRIORITY FOR THE AYLWIN ADMINISTRATION. THE 1980 CONSTITUTION DID NOT PERMIT PRESIDENTIAL PARDONS FOR THOSE CONVICTED OF STATE SECURITY CRIMES, INCLUDING TERRORISM, NOR COULD THE COURTS RELEASE THEM ON BAIL. IN MARCH, 1991, THE CONGRESS REFORMED THE CONSTITUTION, GIVING THE PRESIDENT TEMPORARY AUTHORITY TO PARDON THOSE CONVICTED OF SECURITY OR TERRORIST CRIMES COMMITTED BEFORE MARCH 11, 1990 (SEE REFTEL). AYLWIN SAID HE WOULD PARDON ON A CASEBY-CASE BASIS AFTER A CAREFUL REVIEW.

## REASONS FOR DELAY

4. (LOU) THE GOC EFFORT TO RELEASE "POLITICAL PRISONERS" HAS BEEN HINDERED BY AN INEFFICIENT AND OVER-BURDENED JUDICIAL PROCESS AND COMPLICATED BY OPPOSITION FROM THE RIGHT. BEFORE THE PRESIDENT GRANTS A PARDON, THE PRISONERS MUST BE CONVICTED AND SENTENCED BY THE COURTS. MILITARY TRIBUNALS, WHICH HAD JURISDICTION IN THESE CASES UNTIL THIS YEAR, LET THEM DRAG ON FOR YEARS. UNDER THE 1991 "CUMPLIDO" LAWS (NAMED AFTER THE CURRENT JUSTICE MINISTER)



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PAGE 04 SANTIA 09350 01 OF 04 201658Z JURISDICTION FOR VIRTUALLY ALL SECURITY-RELATED CASES WAS TRANSFERRED TO CIVILIAN COURTS, CREATING A JUDICIAL BACKLOG. THIS BACKLOG ALSO CONTRIBUTED TO DELAYS IN THE RELEASE OF THE "POLITICAL PRISONERS."

CONGRESS APPOINTS 30 TEMPORARY JUSTICES

5. (U) THE CONGRESS APPROVED A LAW ON NOVEMBER 14 AUTHORIZING TEMPORARY APPOINTMENT OF UP TO 30 JUSTICES TO HANDLE THE JUDICIAL PROCESSING OF STATE SECURITY CRIMES AND OTHERS CASES LIKELY TO CAUSE PUBLIC ALARM. (A SIMILAR TOUR BOOK TO

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CONTACTOR I A L SECTION 02 OF 04 SANTIAGO 09350

E.O. 12356:DECL: OADR TAGS: PGOV, PTER, PHUM, CI



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SUBJECT: "POLITICAL PRISONERS" ISSUE BECOMES MAJOR

LAW EARLIER THIS YEAR WAS DEEMED UNGONSTITUTIONAL AND HAD CONFIDENTIAL.

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PAGE 02 SANTIA 09350 02 OF 04 201658Z TO BE REVISED.) THE JUDICIAL APPOINTEES WILL WORK IN THE APPEALS COURTS TO HELP CLEAR OUT THE JUDICIAL BACKLOG AFFECTING "POLITICAL PRISONERS." THE PRESIDENT WILL THEN BE ABLE TO PARDON REMAINING PRISONERS AS HE DEEMS APPROPRIATE.

## STATUS OF PRISONERS

- 6. (C) ACCORDING TO VERONICA REINA FROM THE "FUNDACION DE AYUDA SOCIAL DE LAS IGLESIAS CRISTIANAS" (FASIC) -- A HUMAN RIGHTS ORGANIZATION WITH THE MOST COMPLETE RECORD OF THE ISSUE -- THERE ARE STILL 69 "POLITICAL PRISONERS," 64 OF WHOM CONTINUE TO AWAIT SENTENCING. REINA TOLD POLOFF THAT DESPITE AYLWIN'S PUBLIC COMMITMENT TO RELEASE DETAINEES BY YEAR'S END, SHE BELIEVES BETWEEN 30 AND 40 WILL REMAIN INCARCERATED AT THAT TIME. SHE ARGUES THAT THOSE CASES INVOLVING MORE THAN ONE CONVICTION FOR VIOLENT CRIMES, INCLUDING MURDER, ARE LIKELY TO REQUIRE MORE TIME TO PROCESS.
- 7. (C) MANY OF THE MORE COMPLICATED CASES WILL BE RESOLVED BY SENDING INDIVIDUALS ABROAD UNDER VOLUNTARY EXILE ("EXTRANAMIENTO"), AS HAS OCCURRED IN SEVERAL INSTANCES TO DATE. JUSTICE MINISTER CUMPLIDO SAID THAT THE GOC WILL NOT EXILE CHILEANS, BUT THAT PRISONERS WHO WOULD OTHERWISE REMAIN IN JAIL CAN REQUEST VOLUNTARY EXILE. THE NUMBER OF COUNTRIES WILLING TO ACCEPT THESE INDIVIDUALS, HOWEVER, HAS DROPPED SINCE THE RETURN OF DEMOCRACY TO CHILE.

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MIXED POLITICAL REACTION

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8. (C) CHRISTIAN DEMOCRAT DEPUTY ANDRES AYLWIN (THE PRESIDENT'S RESPECTED HUMAN RIGHTS ACTIVIST BROTHER) HAS TAKEN UP THE CAUSE OF "POLITICAL PRISONERS" IN THE CONGRESS, AND HAS BLAMED THE RIGHT FOR THE CURRENT

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IMPASSE. HE ARGUES THAT MORE FAR REACHING LEGISLATION. INCLUDING ALLOWING PROVISIONAL RELEASE OF PRISONERS AWAITING SENTENCING, COULD HELP RESOLVE THE PROBLEM. HIS VIEW, THE STATE DOES NOT HAVE THE MORAL AUTHORITY TO PUNISH ONE SIDE IN A POLITICAL CONFLICT WHEN IT HAS TAKEN NO ACTION AGAINST MEMBERS OF THE ARMED FORCES, WHO WERE THE MAJOR VIOLATORS OF HUMAN RIGHTS DURING THE PINOCHET ACCORDING TO THIS VIEW, WHICH IS SHARED IN VARYING DEGREES BY THE GOVERNING CENTER-LEFT CONCERTACION AS A WHOLE, MOST OF THE "POLITICAL PRISONERS" SHOULD BE RELEASED, WITH THE HARD CORE VOLUNTARILY EXILED. CHAMBER OF DEPUTIES PRESIDENT JOSE ANTONIO VIERA GALLO (PPD/SOCIALIST) ADVOCATES A BLANKET AMNESTY, BUT THIS IS A MINORITY VIEW. MINISTER OF JUSTICE CUMPLIDO SAID THE GOVERNMENT HAS THE AUTHORITY IT NEEDS, BUT THE JUDICIAL PROCESS SHOULD BE SPEEDED UP.

9. (U) ON THE RIGHT, THE INDEPENDENT DEMOCRATIC UNION (UDI) AND THE NATIONAL RENEWAL (RN) HAVE ACCUSED THE GOVERNMENT OF BEING WEAK AND SEEKING THE WRONG SOLUTION TO THE PROBLEM. THEY ARGUE THE GOC IS BEING PRESSURED, AND THEY STRONGLY OBJECT TO THE ESTABLISHMENT OF JUDICIAL PRIVILEGES FOR THE DETAINEES. THE RIGHT CLAIMS THE

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LEGISLATION WHICH GIVES THEM PRIORITY INTERFERES IN THE
JUDICIAL PROCESSING OF OTHERS SUCH AS COMMON CRIMINALS.
THOUGH RN AND UDI CLAIM TO SUPPORT QUICKER JUDICIAL
PROCESS, BOTH PUBLICLY OPPOSE PENDING LEGISLATION THAT
WOULD FIX A TIME LIMIT ON JUDGES TO SENTENCE PRISONERS AND
PROVISIONALLY RELEASE THEM IF NO SENTENCE IS FORTHCOMING.

DEMONSTRATIONS AND HUNGER STRIKES
DESIGNED TO FORCE THE GOVERNMENT'S HAND

10. (U) PARTLY IN RESPONSE TO THE FRUSTRATIONS OF THE

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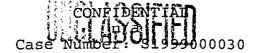
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TO SECSTATE WASHDC 4104
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USCINCSO QUARRY HEIGHTS

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E.O. 12356:DECL: OADR

TAGS: PGOV, PTER, PHUM, CI

SUBJECT: "POLITICAL PRISONERS" ISSUE BECOMES MAJOR

REMAINING "POLITICAL PRISONERS," FAMILY MEMBERS AND CONFIDENTIAL"

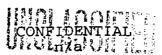
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PAGE 02 SANTIA 09350 03 OF 04 201659Z SUPPORTERS (INCLUDING ELEMENTS OF THE CHILEAN COMMUNIST PARTY) HAVE ORGANIZED A SERIES OF DEMONSTRATIONS IN DOWNTOWN SANTIAGO. SOME OF THESE DEMONSTRATIONS HAVE BECOME VIOLENT, WITH LOCAL POLICE RESPONDING WITH TEAR GAS AND WATER CANNONS. THE WELL-ORCHESTRATED NOVEMBER 12 DEMONSTRATIONS IN DOWNTOWN SANTIAGO, THE MOST VIOLENT IN THE SERIES OF PROTESTS, WERE CLEARLY INTENDED TO CAUSE DISORDER. SOME DEMONSTRATORS TOSSED MOLOTOV COCKTAILS AND CAUSED MINOR PROPERTY DAMAGE. THOUGH THE SECURITY FORCES DETAINED MORE THAN 250 PEOPLE, INCLUDING ONE U.S. CITIZEN LIVING IN CHILE (A MARYKNOLL LAY MISSIONARY), ALL WERE RELEASED SHORTLY THEREAFTER.

11. (U) THE COMMUNIST PARTY ACKNOWLEDGED ITS EFFORTS TO TURN OUT PROTESTERS BUT DENIED INVOLVEMENT IN THE VIOLENCE. COMMUNIST PARTICIPATION, HOWEVER, WAS CLEAR, AND THE GOC ASSUMES THAT THE COMMUNISTS WORKED TOGETHER WITH CHILE'S VIOLENT GROUPS, NOTABLY THE DISSIDENT FACTION OF THE MANUEL RODRIGUEZ PATRIOTIC FRONT (FPMR/D), LAUTARO, AND THE MILITARY FACTION OF THE MOVEMENT OF THE REVOLUTIONARY LEFT (MIR).

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12. (U) CONCERTACION LEADERS HAVE CRITICIZED THOSE PROVOKING THE RECENT VIOLENCE, AND HAVE BEEN SUPPORTIVE OF THE GOC. SOCIALIST PARTY PRESIDENT JORGE ARRATE, FOR EXAMPLE, STATED THAT CRITICISM DIRECTED AGAINST THE GOC HAS BEEN UNFAIR BECAUSE IT IS DOING ALL IT CAN WITHIN THE COUNTRY'S LEGAL FRAMEWORK. HE ARGUED THAT THE HOLDUP WAS IN THE JUDICIAL BRANCH AND THAT ANY CRITICISM SHOULD BE DIRECTED AT OPPOSITION PARLIAMENTARIANS WHO OPPOSE THE GOVERNMENT'S DESIRED LEGISLATION.



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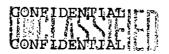
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(C) IN ANOTHER DEVELOPMENT, AFTER 45 DAYS THE FINAL FOUR "POLITICAL PRISONERS" ON HUNGER STRIKE ENDED THEIR FAST NOVEMBER 13 -- MUCH TO THE RELIEF OF THE GOC. IN RECENT WEEKS THESE INDIVIDUALS RECEIVED CONSIDERABLE ATTENTION INCLUDING HIGH LEVEL VISITS IN PRISON. THE FOUR HUNGER STRIKERS HAVE NOTORIOUS RECORDS. MIGUEL COLINA HAS BEEN SENTENCED TO EXECUTION AND TO LIFE IMPRISONMENT, AND HAS ADDITIONAL SENTENCES OF 15, THREE, AND TWO YEAR TERMS. HE WAS INVOLVED IN THE 1986 ASSASSINATION ATTEMPT AGAINST GENERAL PINOCHET, IN WHICH FIVE OF THE FORMER PRESIDENT'S BODY GUARDS WERE KILLED. GUILLERMO RODRIGUEZ HAS BEEN CONDEMNED TO LIFE IMPRISONMENT PLUS 10 AND 15 YEARS TERMS. HE ALSO HAS THREE PENDING TRIALS.) AT A PRESS CONFERENCE ANNOUNCING THE END OF THE HUNGER STRIKE, THE FOUR DENOUNCED THE AYLWIN GOVERNMENT'S INABILITY TO RESOLVE THEIR PLIGHT,

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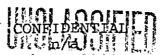
CALLING CHILE A "CAPTIVE DEMOCRACY" WITH THE "INHERITED INSTITUTIONALITY OF THE DICTATORSHIP."

14. (C) THE CONFRONTATIONAL TACTICS USED BY THE FASTING PRISONERS AND THEIR SUPPORTERS POSE A DILEMMA FOR THE AYLWIN GOVERNMENT. BY MOVING FORWARD WITH ITS ORIGINAL PLAN TO EXPEDITE THE RELEASE OF THE PRISONERS, THE GOVERNMENT APPEARS TO SUCCUMB TO THE PROTESTS. EVEN THOUGH THEY VOTED FOR THE GOC LEGISLATION, RN AND UDI ARE NOW ACCUSING THE GOVERNMENT OF WEAKNESS AND EVEN COMPLICITY WITH THE PROTESTERS.



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15. (C) THE GOVERNMENT HAS WEATHERED THE POLITICAL DISTURBANCES, BUT THE PROBLEM IS FAR FROM BEING RESOLVED. THE CONCERTACION REMAINS UNITED BUT THE OPPOSITION (BOTH THE RIGHT AND EXTREME LEFT) WILL CONTINUE TO TRY TO EXPLOIT THE ISSUE POLITICALLY. THE COMMUNISTS, FOR EXAMPLE, HAVE MADE IT A RALLYING POINT FOR THEIR FIRST COORDINATED ATTACK ON THE GOVERNMENT, AND WE CAN EXPECT MORE MILITANT OUTINGS AS MUNICIPAL ELECTIONS APPROACH. AT THE SAME TIME, THOUGH THE "POLITICAL PRISONERS" RECEIVED

HE "POLITICAL CONFIDENTIAL CONF

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E.O. 12356:DECL: OADR

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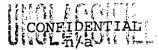
SUBJECT: "POLITICAL PRISONERS" ISSUE BECOMES MAJOR

MUCH PUBLICITY, RECENT PUBLIC OPINION POLLS SHOW A GREATER

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PAGE 02 SANTIA 09350 04 OF 04 201659Z CONCERN THROUGHOUT CHILEAN SOCIETY OVER DELINQUENCY, WHICH





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MANY EQUATE WITH THESE CRIMES, THAN WITH HUMAN RIGHTS.

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